

# Fiscal Note

*Fiscal Services Division*



**SF 2201** – Kidnapping, Second Degree (LSB 5488HV)  
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Fiscal Note Version – Committee Amendment **H-8090**  
Requested by Representative Chip Baltimore

## Description

Section 1 of Committee Amendment **H-8090** to **Senate File 2201** amends the definition of second degree kidnapping to exclude a parent or guardian whose sole purpose is to assume custody of the victim. The remainder of this amendment creates a Category C felony sentence that applies to offenders convicted of certain offenses and the victim was 15 years old or younger. A Category C felony sentence eliminates earned time accrual. This amendment requires an offender with multiple sentences to serve the Category C felony offense first. No earned time accrual occurs until the Category C felony sentence is served. The table below shows the list of offenses included in the Category C felony sentence.

### Offenses Impacted by H-8090 to SF 2201

Crime Code	Year Of Code	Offense Class	Offense Description
707.3	1996	B Felony	Murder Second Degree 85.0%
707.11	1998	B Felony	Attempted Murder 85.0%
709.2	2005	A Felony	Sex Abuse First Degree - Life Special Sentence
709.3	2005	B Felony	Sex Abuse Second Degree (85%) - Life Special Sentence
709.4	2005	C Felony	Sex Abuse Third Degree - Life Special Sentence
709.4(1)	2005	C Felony	Sex Abuse Third Degree - Spouse or Cohabitant - Life Special Sentence
709.4(2)(a)	2010	C Felony	Sex Abuse Third Degree - Life Special Sentence
709.4(2)(b)	2005	C Felony	Sex Abuse Third Degree/Victim 12 or 13 Years Old - Life Supervision
709.4(2C,4)	2005	C Felony	Sex Abuse Third Degree - Life Special Sentence
709.8(1)	2005	C Felony	Lascivious Acts With a Child - Life Special Sentence
709.8(2)	2005	C Felony	Lascivious Acts With a Child - Life Special Sentence
709.8(3)	2005	D Felony	Lascivious Acts With a Child - 10 Year Special Sentence
709.8(4)	2005	D Felony	Lascivious Acts With a Child - 10 Year Special Sentence
709.11,A	2005	C Felony	Assault to Commit Sex Abuse/Serious Injury - Life Special Sentence
709.11,B	2005	D Felony	Assault to Commit Sex Abuse/Bodily Injury - 10 Year Special Sentence
709.15(4)a	2005	D Felony	Sexual Exploitation by Counselor or Therapist - 10 Year Special Sentence
709.15(5)(a)	2005	D Felony	Sexual Exploitation by School Employee - 10 Year Special Sentence
710.3	1996	B Felony	Kidnapping Second Degree - 85.0%
710.4	1978	C Felony	Kidnapping Third Degree
710A.2(2)	2006	B Felony	Human Trafficking Under 18 - Serious Injury
710A.2(4)(b)	2006	C Felony	Human Trafficking - Under Age 18
728.12(1)	2005	C Felony	Sexual Exploitation of Minor - Life Special Sentence
728.12(2)	2005	D Felony	Sexual Exploitation of Minor - 10 Year Special Sentence
728.12(3)(b)	2005	D Felony	Sexual Exploitation of Minor/Second Offense - 10 Year Special Sentence

## **Background**

### **Correctional and Fiscal Information**

- All of the offenders impacted by the provisions of this amendment are currently sentenced to State prison. They will remain in State prison longer under the legislation's provisions.
- Eliminating earned time increases an offender's length of stay in prison. The correctional impact is realized only after the current length of stay is served and the offender would have been released. For example, a Class B felony offender convicted of a crime against a person served an average of 10.4 years in prison before being released in FY 2013. Under this amendment's provisions, they may serve up to 25 years in prison. The correctional impact is realized after 10.4 years for these offenders.
- The fiscal impact to the Judicial Branch operating budget is minimal. The offenders impacted under the provisions of this amendment are currently being tried and convicted of the same offense class.
- The fiscal impact on the indigent defense budget is minimal. The maximum cost of a Class C felony case is \$1,800 while the maximum cost of a Class B felony case is \$3,600, for a difference of \$1,800.
- There may be an impact on Community-Based Corrections (CBC) supervision for offenders on parole or work release statuses that receive earned time reduction of their sentence. Also, offenders on parole or work release may be revoked to State prison and this may increase the State prison population.
- The marginal cost per day for State prison is \$18.25 in FY 2013.
- Offenders convicted of sex crimes are subject to electronic monitoring and intensive supervision when they are under the supervision of CBC. Offenders convicted of a Class C felony sex offense, or greater, are subject to a special sentence of lifetime supervision. Offenders convicted of a Class D felony sex offense, or misdemeanor, are subject to a special sentence of 10 years of supervision. The special sentence begins after the original sentence is served. Sex offenders must also comply with the provisions of the Sex Offender Registry.
- The Department of Corrections (DOC) will need to modify its earned time calculations in the Iowa Corrections Offender Network (ICON). Additional programming costs will be incurred.
- The Criminal and Juvenile Justice Planning Division published the Iowa Prison Population Forecast FY 2013 - 2023 in November 2013. If current offender behaviors and justice system trends, policies, and practices remain unchanged, the prison population will be approximately 9,243 offenders on June 30, 2023, an increase of 14.4% over the next decade.
- By FY 2023, and without any additional prison beds, overcrowding is expected to reach 126.4% of design capacity. This figure is based on the assumption that all of the additional beds authorized during the 2008 Legislative Session for Fort Madison and Mitchellville will be operating by FY 2023. Prison beds for women offenders are expected to be operating at 85.1% of capacity. The overcrowding is expected to occur for male prisoners, with the prisons operating at 131.3% of capacity (2,045 beds).

### **Minority Data Information**

- For FY 2013, 66.0% of offenders convicted of Third Degree Kidnapping were Caucasian and 34.0% were Black. There were three offenders convicted of Enticing a Minor (Class C felony) in FY 2013; all three offenders were Caucasian.
- Approximately 22.4% of offenders admitted to prison for convictions that will become Category C sentences under H-8090 are minorities. The majority of the offenders may be Hispanic (12.6%) or Black (9.8%).

## **Assumptions**

### **Correctional and Fiscal Information**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Plea bargaining and other criminal justice policies and practices will not change over the projection period.
- This law will become effective July 1, 2014. A lag effect of six months is assumed from the effective date of the amendment to the date of first entry of affected offenders into the State prison system.
- Admissions to the State prison system for Category C felony offenses will remain the same over the projection period.
- Offenders sentenced to a Category C felony offense will be eligible for parole or work release. However, it is likely more offenders will serve their full sentence in prison. The full impact of the elimination of earned time for certain offenses will not be realized until at least 20 years have elapsed. The maximum penalty for a Class B felony conviction is up to 25 years in State prison.

**Minority Data Information:** The impact on minorities will remain consistent with current data.

## **Summary of Impacts**

### **Correctional Impact**

There will be an estimated 115 offenders annually impacted by the provisions of this amendment. This estimate includes the kidnapping provision as well as the impact of creating Category C felony sentences in H-8090.

On an annual basis, it is estimated that there will be one offender currently convicted of third-degree kidnapping and three offenders convicted of Enticing a Minor (both offenses are Class C felonies) that will be convicted of Second Degree Kidnapping (Class B felony).

There will be an estimated 115 offenders annually admitted to State prison that will serve Category C felony sentences. The table below shows the offense class, current length of stay in prison before release, and maximum length of stay under the provisions of a Category C felony sentence. Approximately 84.7% of the offenders are convicted of sex crimes. Approximately 71.1% of the sex crime convictions are for Class C felony convictions.

**Annual Admissions to State Prison  
for Category C Felony Offenses**

Conviction Offense Class	Number of Offenders	Current Average Length of Stay (LOS) in Prison in Months	Maximum LOS in Prison in Months	Projected Increase in the LOS in Prison in Months
Class B Felony	24	124.1	273.0	148.9
Class C Felony	65	38.0	83.6	45.6
Class D Felony	26	33.0	72.6	39.6
Total Convicted	115			

The State prison population will start increasing in FY 2018, with an estimated population increase of 20 offenders. In FY 2019, the State prison population will increase by 55 offenders.

There is a significant impact on the State prison population beyond the five-year reporting period. After 10 years, the State prison population is expected to be an additional 400 offenders. This is when most of the correctional impact begins to occur, when the impact on the length of stay for Class C Felony Sex Crimes happens. After 20 years, the correctional impact is expected to be an additional 631 offenders in the State prison system.

Admissions to CBC supervision for parole, work release, and special sentence offenders may decline over the long term. However, the length of stay on CBC supervision for Category C felony sentenced offenders may increase. Over the long term, the Category C felony sentence is likely to increase the number of offenders supervised in CBC.

### **Minority Impact**

The provision related to Second Degree Kidnapping is not expected to have a minority impact. The provisions related to the Category C felony sentence are expected to have a minority impact because 22.4% of offenders impacted by the elimination of earned time are Black or Hispanic. They will remain in prison longer under the amendment than they do under current law.

### **Fiscal Impact**

The fiscal impact to the State is expected to be increased cost to the General Fund of \$27,600 in FY 2015 and \$7,200 in FY 2016. The table below shows the fiscal impact over the next five fiscal years.

<b>Fiscal Impact on the State General Fund</b>					
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
DOC	\$ 24,000	\$ 0	\$ 0	\$ 133,225	\$ 366,400
Indigent Defense	3,600	7,200	7,200	7,200	7,200
Total	<u>\$ 27,600</u>	<u>\$ 7,200</u>	<u>\$ 7,200</u>	<u>\$ 140,425</u>	<u>\$ 373,600</u>

The impact on the State prison system is expected to continue to increase for at least the next 20 years. By the end of FY 2035, the fiscal impact on the DOC budget is expected to be approximately \$4.2 million in today's dollars.

The fiscal impact to the Judicial Branch operating budget is minimal. The offenders impacted are currently being tried and convicted of the same offense class.

There may be an impact on CBC supervision inasmuch as offenders on parole or work release status receive earned time reduction of sentence. Also, offenders on parole or work release may be revoked to State prison; that may increase the State prison population.

To the extent there is an impact on the CBC system, the fiscal impact may be understated. Criminal justice system costs generally increase in relation to the severity of the penalty imposed. To the extent the new Category C felony sentencing structure results in more trials or appeals, the fiscal impact indicated above may be understated.

### **Sources**

Department of Corrections  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Office of the State Court Administrator  
Office of the State Public Defender

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/s/ Holly M. Lyons

March 11, 2014

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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